

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 ROBERT WALSH,

Case No.: 2:18-cv-01427-GMN-CWH

4 Petitioner

Order

5 v.

6 JAMES DZURENDA, et. al,

7 Respondents
8

9 Petitioner Robert Walsh has submitted a *pro se* 28 U.S.C. § 2254 petition for writ of
10 habeas corpus. The court has reviewed the petition pursuant to Habeas Rule 4, and it shall be
11 docketed and served on respondents.

12 A petition for federal habeas corpus should include all claims for relief of which
13 petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever
14 barred from seeking federal habeas relief upon that claim. *See* 28 U.S.C. §2254(b) (successive
15 petitions). If petitioner is aware of any claim not included in his petition, he should notify the
16 court of that as soon as possible, perhaps by means of a motion to amend his petition to add the
17 claim.

18 **IT IS THEREFORE ORDERED** that the Clerk shall **ELECTRONICALLY SERVE**
19 the petition (ECF No. 1) on the respondents.

20 **IT IS FURTHER ORDERED** that the Clerk shall add Adam Paul Laxalt, Nevada
21 Attorney General, as counsel for respondents.

22 **IT IS FURTHER ORDERED** that respondents shall file a response to the amended
23 petition, including potentially by motion to dismiss, within **90 days** of service of the petition,

1 with any requests for relief by petitioner by motion otherwise being subject to the normal
2 briefing schedule under the local rules. Any response filed shall comply with the remaining
3 provisions below, which are entered pursuant to Habeas Rule 5.

4 **IT IS FURTHER ORDERED** that any procedural defenses raised by respondents in this
5 case shall be raised together in a single consolidated motion to dismiss. In other words, the court
6 does not wish to address any procedural defenses raised herein either *in seriatum* fashion in
7 multiple successive motions to dismiss or embedded in the answer. Procedural defenses omitted
8 from such motion to dismiss will be subject to potential waiver. Respondents shall not file a
9 response in this case that consolidates their procedural defenses, if any, with their response on
10 the merits, except pursuant to 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly
11 lacking merit. If respondents do seek dismissal of unexhausted claims under § 2254(b)(2): (a)
12 they shall do so within the single motion to dismiss not in the answer; and (b) they shall
13 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set forth in
14 *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no procedural defenses,
15 including exhaustion, shall be included with the merits in an answer. All procedural defenses,
16 including exhaustion, instead must be raised by motion to dismiss.

17 **IT IS FURTHER ORDERED** that, in any answer filed on the merits, respondents shall
18 specifically cite to and address the applicable state court written decision and state court record
19 materials, if any, regarding each claim within the response as to that claim.

20 **IT IS FURTHER ORDERED** that petitioner shall have **45 days** from service of the
21 answer, motion to dismiss, or other response to file a reply or opposition, with any other requests
22 for relief by respondents by motion otherwise being subject to the normal briefing schedule
23 under the local rules.

1 **IT IS FURTHER ORDERED** that any additional state court record exhibits filed herein
2 by either petitioner or respondents shall be filed with a separate index of exhibits identifying the
3 exhibits by number. The CM/ECF attachments that are filed further shall be identified by the
4 number of the exhibit in the attachment.

5 **IT IS FURTHER ORDERED** that the parties SHALL SEND courtesy copies of all
6 exhibits in this case to the Clerk of Court, 400 S. Virginia St., Reno, NV, 89501, directed to the
7 attention of “Staff Attorney” on the outside of the mailing address label. Additionally, in the
8 future, all parties shall provide courtesy copies of any additional exhibits submitted to the court
9 in this case, in the manner described above.

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11 DATED: 17 October 2018.

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15 GLORIA M. NAVARRO, CHIEF JUDGE,
16 UNITED STATES DISTRICT COURT
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